

AN ORDINANCE BY

COUNCILMEMBER JOYCE SHEPERD



AN ORDINANCE TO WAIVE SEC. 74-204 (PERMIT REQUIRED), ARTICLE VI. (FLOOD AREA REGULATIONS), UNDER CHAPTER 74 (ENVIRONMENT) OF CODE OF ORDINANCES, SO AS TO ISSUE A BUILDING PERMIT FOR THE HI-FI AMPHITHEATRE, AND ISSUE SAID PERMIT, CONTINGENT UPON THE AMPHITHEATRE'S SIGNING A HOLD HARMLESS AGREEMENT WITH THE CITY OF ATLANTA; AND FOR OTHER PURPOSES.

WHEREAS, the Hi-Fi Amphitheatre is located at 2000 Lakewood Avenue in Council District 12; and

WHEREAS, this facility has served as a major economic development generator for quality entertainment for Atlanta's south side; and

WHEREAS, this development was completed and operational before the Corps of Engineers completed the Flood Plains Survey Reports that designated areas likely to flood within the 100 year plain contour maps; and

WHEREAS, the City of Atlanta has requested that the Amphitheatre place support equipment, overflow metal tables and chairs in a storage building; and

WHEREAS, in an effort to comply, Hi-Fi Amphitheatre purchased building materials in excess of \$60,000 to construct a storage facility; and

WHEREAS, the Site Development Division of the Public Works Department has denied the issuance of a permit, citing the possible liability of the City; and

WHEREAS, the Amphitheatre has purchased flood insurance, and has agreed to hold the City harmless, in the unlikely event of a flood.

WHEREAS, the proposed location of the storage building is near no residential developments.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA that Sec. 74-204 (Permit required), Article VI. (Flood Area Regulations), under Chapter 74 (Environment) of Code of Ordinances, is hereby waived so that a Building Permit can be issued for the Hi-Fi Amphitheatre, and issue said permit, contingent upon the Amphitheatre's signing a Hold Harmless Agreement with the City of Atlanta.

BE IT FURTHER ORDAINED, That all ordinances and parts of ordinances in conflict herewith are hereby repealed for purposes of the ordinance only, and only to the extent of the conflict.

CODE OF ORDINANCES City of ATLANTA, GEORGIA Codified through Ord. No. 2005-08, enacted Feb. 14, 2005. Included in the Charter and Related Laws Ord. No. 2005-09, approved Feb. 16, 2005. (Supplement No. 29, Update 4) \ PART II CODE OF ORDINANCES—GENERAL ORDINANCES \ Chapter 74 ENVIRONMENT* \ ARTICLE VI. FLOOD AREA REGULATIONS*

Sec. 74-204. Permits required.

CODE OF ORDINANCES City of ATLANTA, GEORGIA Codified through Ord. No. 2005-08, enacted Feb. 14, 2005. Included in the Charter and Related Laws Ord. No. 2005-09, approved Feb. 16, 2005. (Supplement No. 29, Update 4) \ PART II CODE OF ORDINANCES—GENERAL ORDINANCES \ Chapter 74 ENVIRONMENT* \ ARTICLE VI. FLOOD AREA REGULATIONS* \ Sec. 74-204. Permits required.

Use of lands and buildings, and construction of structures within a special **flood** hazard area shall require approval of a permit by the commissioner of the department of public works.

Any proposal which includes any of the activities described in this article shall be submitted to the commissioner of the department of public works for review before any such activity is commenced. The commissioner, or an authorized representative of the commissioner, may authorize the approval of any of such activities upon a finding, based on detailed plans and specifications submitted with the proposal, that the activity can be completed and occupied or used in full compliance with the requirements of this article.

No part of any such activity shall be commenced before such permit approval has been issued and all other permits and licenses required by applicable law have been issued or obtained. The commissioner may recommend the revocation of any such permit approval when the commissioner determines the activity is not being accomplished, or that the land is not being used or occupied, as shown on the plans and specifications approved by the commissioner. A permit approval so revoked may be reinstated upon application by the holder under such rules and conditions as are established by the commissioner consistent with the requirements of this article and other applicable laws.

The commissioner shall not, by authorizing the approval of a permit under the authority of this article, authorize any use of land, any extension or enlargement of a use of land which existed before the original date of enactment of the provisions of said article, or the commencement of any of the activities described in this article, where the effect thereof would be to decrease the volume of existing **flood** storage on that land or to increase flooding conditions upstream, downstream or adjacent to that land.

- (1) *Protection of floodways.* The floodway shall be that as defined in the **flood** insurance study, City of Atlanta, Georgia, Fulton and DeKalb County, Federal Emergency Management Agency, revised June 22, 1998, and as it may be subsequently revised or extended. On those watercourses and rivers regulated hereunder where the floodway has not been defined in the said **flood** insurance study and until such time as these watercourses and rivers are defined in an officially adopted or revised **flood** insurance study, the floodway shall be defined as the channel of the watercourse or river and the adjacent areas of the defined or undefined floodplain that must be reserved in order to discharge the 100-year base **flood** without cumulatively increasing the water surface elevation more than one foot upstream of, downstream of, or at the point being considered. No fill or encroachments shall be placed within the defined floodway that would impair the

ability to carry and discharge the waters resulting from the 100-year base flood.

- (2) *Floodplain protection.* The commissioner shall not authorize the approval of any permit authorizing the placement of fill or stored materials, or the construction of any building or other structure within the floodplain. Earth-disturbing activities in the floodplain shall be permitted only when the resulting configuration shall allow stormwater to enter the floodway by sheet flow (not channelized flow) and results in no loss of existing flood volume. Any earth-disturbing activities within a floodplain shall be subject to requirements of stream bank buffer limits and should be constructed using best management practices for soil erosion and sedimentation control. The use of compensating excavation or contouring procedures to modify flood hazard limits may only apply to install necessary public roadway and utilities within the flood limits to support existing and new property(s) which are not within the flood limits.

All applications for permits issued by the commissioner which would allow any use or construction wholly or partly in a special flood hazard area shall include detailed plans and specifications which demonstrate that no expansion of a special flood hazard area would result from the work which would be authorized by any such permit. No such permit shall authorize any proposed use or construction which would have a finished elevation less than two feet higher than the nearest base flood elevation and that would be closer than 15 feet from the nearest base flood elevation, and no such permit shall be issued until the plans and specifications submitted have been authorized by the commissioner. Any comments or requirements endorsed on such plans and specifications, or on an addendum thereto, by the commissioner shall become a part of any permit issued for the work covered by the plans and specifications and shall be enforced as are all other requirements applicable to such permit.

- (3) *Special flood hazard areas; further use restrictions.* Where a residential, commercial, industrial or other zoning district established under Part 16 for general regulations of uses and structures is in whole or in part also within the limits of a special flood hazard area, uses within the special flood hazard area shall not necessarily include all those generally permitted in the residential, commercial, industrial or other such zoning district, but only those which by kind, character or location meet the objectives of this article.
- (4) *Modification to existing structures or existing usages of the floodplain in violation of, but predating the provisions of this article.* Minor modifications and routine maintenance of uses and structures which were lawful prior to the original date of enactment of the provisions of this article, including existing structures, fills, pavements, utilities, mobile homes, mobile home sites and other facilities, shall be subject to the following restrictions:

Any modification to an existing usage, when such existing usage is in violation of this article, that enhances the protection of life or property or which is reasonably necessary to the maintenance and upkeep of the property concerned and which does not extend the scope and magnitude of the existing violation of these regulations, is permitted provided the value of such modification or maintenance does not exceed 50 percent of the fair market value of the total existing usage prior to such modification or maintenance, excluding the value of the land but including the value of existing structures, utility service connections, fills, pavements, slabs, mobile home sites and other facilities which can be reasonably demonstrated as an integral part of that existing usage.

Any improvement, modification or maintenance and any repairs or reconstruction required by any reason, including damages arising from normal deterioration, **flood**, other natural act or accident, of any existing usage where such existing usage is in violation of this article, shall bring that existing usage under the scope of the regulations set forth in this subsection 74-88(4); and that existing usage shall be brought into compliance with this article, providing that the total value of such improvement, modification, maintenance, repair or reconstruction exceeds 50 percent of the fair market value of the existing usage before such improvement, modification or maintenance or before such **flood**, other natural act or accident, excluding the value of the landing but including the prior value of structures, utility service connections, fills, pavements, slabs, mobile home sites and other facilities which can be reasonably demonstrated as an integral part of the existing usage prior to the event.

(Code 1977, § 16-21.004; Ord. No. 2001-77, 8-13-01; Ord. No. 2002-21, § 2, 3-26-02)

Editor's note--Formerly LDC § 16-21.004.